The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Criminal Justice Committee

BILL:	SB 2298
INTRODUCER:	Senator Crist
SUBJECT:	Department of Corrections
DATE:	March 20, 2009
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Clodfelter	Cannon	CJ	**Favorable**
2.			HR	
3.			JU	
4.			JA	
5.			WPSC	
6.				

I. Summary:

This bill makes a number of changes relating to the Department of Corrections, including:

- Codifying the department's current practice of electronically transmitting the names of inmates and offenders who are eligible for the restoration of civil rights to the Parole Commission.
- Subjecting employees of private correctional facilities to criminal punishment for engaging in sexual misconduct with an inmate, as is the case with department employees.
- Establishing timeframes for submitting requests for payment of medical claims or for return of overpayment of such claims.
- Capping payments for non-contractual medical services by codifying language contained in the 2008 General Appropriations Act.
- Requiring all offenders who are subject to electronic monitoring to pay the department for the monitoring service.
- Requiring courts to use an order of supervision form provided by the department when placing an offender on community supervision.
- Creating statutory standard conditions of probation that require offenders who are on community supervision to live without violating any law and to submit to a digital photograph.
- Allowing sentencing courts to modify the sentence of a youthful offender who is successfully completing the Basic Training Program so that he or she can be placed on probation immediately after completion.
- Removing certain data reporting requirements for county detention facilities.

- Removing references to "criminal quarantine community control" because no one has been sentenced to that type of community supervision since it was created in 1993.
- Providing a five-year statute of limitation period for the state to seek recovery of costs of incarceration, and specifying that the costs are to be determined based upon the length of the sentence imposed by the court.
- Providing that a sentencing court must retain jurisdiction to enter civil restitution lien orders until the later of the duration of the sentence or up to 5 years after the offender is released from incarceration or supervision.

This bill substantially amends the following sections of Florida Statutes: 940.061, 944.35, 947.1405, 948.01, 948.03, 948.09, 948.101, 948.11, 951.23, 958.045, 960.292, and 906.293.

The bill creates sections 945.604 and 945.6041 of the Florida Statutes.

The bill repeals sections 944.293 and 948.001(3) of the Florida Statutes.

II. Present Situation:

Restoration of Civil Rights Process

The civil rights of a convicted felon are suspended until restored by pardon or restoration of civil rights. Among the civil rights that are lost are the right to vote, to hold public office, to serve on a jury, to possess a firearm, and to engage in certain regulated occupations or businesses. The power to restore civil rights is granted by the Florida Constitution to the Governor with the consent of at least two Cabinet members pursuant to Article IV, Section 8(a), of the Florida Constitution. The Governor and the Cabinet collectively act as the Clemency Board. The Florida Parole Commission (commission) acts as the agent of the Clemency Board in determining whether offenders are eligible for restoration of rights, investigating applications and conducting hearings when required, and making recommendations to the board.

Section 940.061, F.S., requires the Department of Correction (department) to: (1) inform and educate inmates and offenders on community supervision about the restoration of civil rights, and (2) assist eligible inmates and offenders on community supervision with the completion of the application for the restoration of civil rights. Section 944.293, F.S., requires the department to obtain the application and any other forms needed to apply for restoration of civil rights, to assist offenders in completing the forms, and to ensure that the forms are forwarded to the governor.

These statutes were enacted when the restoration of civil rights process required persons to fill out and submit paper applications to the commission. Filing of a paper application is no longer required. Since 2001, the department has electronically submitted the names of inmates released from incarceration and offenders who have terminated from supervision to the commission each month. These lists serve as electronic restoration of civil rights applications. The commission reviews the electronic application to determine whether the person is eligible for restoration of civil rights without a hearing.

Sexual Misconduct – Private Prisons

Section 944.35(3), F.S., prohibits department employees from engaging in sexual activity with an inmate or an offender under the department's supervision. It is a third degree felony to violate the statute, which applies to sexual acts that in many cases are only illegal because of the status of the participants. The statute does not apply in the case of sexual battery, which may carry a higher penalty and is illegal regardless of the participants' status.

The statute seeks to prevent correctional employees from abusing their authority or becoming subject to coercion from an inmate or offender as the result of a sexual encounter. However, it does not apply to employees of the six private correctional facilities in Florida. The department reports that it has investigated instances of sexual activity between employees and inmates at private correctional facilities. However, the department has been advised by prosecutors that current law does not allow prosecution for sexual acts between an employee of a private correctional facility and an inmate unless the acts are illegal under a statute other than s. 944.35(3), F.S.[1]

Medical Care Claim Periods and Payment Limitations

Outside health care providers submit payment claims to the department for inmate medical care that cannot be provided in a department facility. These claims must be reviewed to determine if the services rendered were reasonable and accurately reflected in the claim, and if the requested payment is correct. The department indicates that it processes and pays more than 65,000 medical claims each year.[2]

Florida law does not set forth a time period in which a provider may submit a medical claim to the department. However, s. 641.3155, F.S., governs claims between providers and HMOs. It defines terms and establishes time periods and methods for submission of claims. Provider claims for payment or underpayment must be submitted to the HMO within six months of a patient's discharge, and an HMO claim that it has overpaid must be submitted to the provider within 30 months after the claim was paid.

The department has contracted for discounted or fixed pricing from many, but not all, of its outside health care providers. Having an established price allows the department to control costs and predict future expenses. However, the department has not been able to contract with all of the health care providers that it uses and often receives little or no discount when paying non-contractual medical expenses. It spent more than $76 million on hospital and emergency medical care for inmates during Fiscal Year 2007-2008.[3]

Proviso language in the 2008 General Appropriations Act limited the amount the department can pay for non-contractual medical services rendered by hospitals or physicians. The limit is normally 110 percent of the Medicare rate, but is 125 percent of the Medicare rate if the hospital reported an operating loss to the Agency for Health Care Administration. The department estimates that the proviso will result in avoidance of more than $15 million in expenses for the current fiscal year. However, the limitation in proviso language will not apply to claims incurred after the end of the fiscal year.

[1] Department of Corrections' 2009 Bill Analysis, Senate Bill 2298.
[2] *Supra.*
[3] *Supra.*

Community Supervision

Overview

More than 117,000 offenders are actively supervised by the Department of Corrections on some form of community supervision.[4] Florida law recommends community supervision for offenders who do not appear to be likely to reoffend and who present the lowest danger to the welfare of society. Generally, this includes those offenders whose sentencing score sheet result does not fall into the range recommending incarceration under the Criminal Punishment Code.

The two major types of community supervision are probation and community control. Community control is a higher level of supervision that is administered by officers with a statutorily mandated caseload limit. Both probation and community control are judicially-imposed sentences that include standard statutory conditions as well as any special conditions that are directed by the sentencing judge.[5]

Section 948.03, F.S., sets forth standard conditions of probation or community control. Standard conditions are effective even if not orally pronounced at the time of sentencing. The sentencing court may also add special conditions that it considers to be proper. A special condition is not enforceable unless it is orally pronounced by the court at the time of sentencing. The standard conditions in s. 948.03, F.S., require an offender who is sentenced to probation or community control to:

- Report to the probation and parole supervisors as directed.
- Permit such supervisors to visit him or her at his or her home or elsewhere.
- Work faithfully at suitable employment insofar as may be possible.
- Remain within a specified place.
- Make reparation or restitution.
- Make payment of the debt due and owing to a county or municipal detention facility for medical care, treatment, hospitalization, or transportation received by the felony probationer while in that detention facility.
- Support his or her legal dependents to the best of his or her ability.
- Pay any monies owed to the crime victim's compensation trust fund.
- Pay the application fee and costs of the public defender.
- Not associate with persons engaged in criminal activities.
- Submit to random testing as directed by the correctional probation officer or the professional staff of the treatment center where he or she is receiving treatment to determine the presence or use of alcohol or controlled substances.
- Not possess, carry, or own any firearm unless authorized by the court and consented to by the probation officer.
- Not use intoxicants to excess or possess any drugs or narcotics unless prescribed by a physician.
- Not knowingly visit places where intoxicants, drugs, or other dangerous substances are unlawfully sold, dispensed, or used.

[4] Department of Corrections Monthly Status Report of Florida's Community Supervision Population, January 2009.
[5] See Jones v. State, 661 So.2d 50 (Fla 2nd Dist. 1995). Some special conditions are included in the statutes as options for the sentencing court, and others are devised by the court.

- Submit to the drawing of blood or other biological specimens, and reimburse the appropriate agency for the costs of drawing and transmitting the blood or other biological specimens to the Department of Law Enforcement.

Rule 3.986(e) and (f) of the Florida Rules of Criminal Procedure includes the following condition for probationers and community controllees: "You will live without violating the law. A conviction in a court of law shall not be necessary for such a violation to constitute a violation of your probation." However, this condition is not listed as a standard condition of community supervision in s. 948.03(1), F.S.

The conditions of supervision that apply to a particular offender are set forth in the order of supervision that is entered by the court when an offender is sentenced. There is no statewide format for the order of supervision, but the department has developed a uniform order of supervision that it reports is now being used by a majority of judicial circuits.

Criminal Quarantine Community Control
Criminal quarantine community control is another form of community supervision that is available for sentencing offenders who are convicted of criminal transmission of HIV pursuant to s. 775.0877, F.S. It is defined in s. 948.001, F.S., as "intensive supervision, by officers with restricted caseloads, with a condition of 24-hour-per-day electronic monitoring, and a condition of confinement to a designated residence during designated hours." Section 948.101, F.S., provides that the court must require 24 hour a day electronic monitoring and confinement to a designated residence during designated hours as a condition of criminal quarantine community control. However, no one has been sentenced to criminal quarantine community control since the statutes were enacted in 1993. Offenders who have been convicted of criminal transmission of HIV have historically been sentenced to regular probation.

Electronic Monitoring
Offenders on any type of community supervision may be ordered to submit to electronic monitoring.[6] However, only community controlees are statutorily required to pay for such monitoring. Section 948.09, F.S., requires a community controlee who is on electronic monitoring to pay a surcharge in an amount that may not exceed the full cost of the monitoring service. This is in addition to the cost of supervision fee as directed by the sentencing court.

Although community controlees are the only type of offender required to pay for electronic monitoring, the department attempts to collect the monitoring surcharge from offenders on other types of supervision. However, efforts to collect are hindered by the fact that there is no statutory requirement that such offenders pay for monitoring.

As a whole, offenders only paid about 10 percent of the costs of electronic monitoring. The following chart reflects the statewide cost of electronic monitoring and the amount paid by offenders for the past three fiscal years:

[6] As of January 12, 2009, the department had 2209 offenders on active GPS electronic monitoring, which costs $8.94 per day (75% of these offenders are sexual offenders). 100 offenders on radio frequency electronic monitoring, which costs $1.97 per day.

Fiscal Year	Total Expenditures	Number of Offenders on Electronic Monitoring	Revenue Collected	Percent of Collection
07-08	$5,510,068	2,066	$532,812	10%
06-07	$2,862,880	1,415	$375,573	13%
05-06	$3,706,180	979	$256,138	7%

County Detention Facility Reporting Requirements

Section 951.23(2), F.S., provides for the department and administrators of county detention facilities to develop an instrument for collecting information about the county facility. The information must be transmitted to the department in electronic or computer-readable form on a monthly basis. The statute requires reporting of specific detailed information about the persons housed in the county facility, including numbers categorized by age, sex, race, country of citizenship, country of birth, immigration status, length of sentence, and pretrial or post-trial status. It also includes reporting of the cost per day for housing a person in the county detention facility.

The Florida County Detention Facility (FCDF) monthly report was developed to meet the statutory requirements. After receipt, the department manually enters the information provided by the counties into a spreadsheet, summarizes the information, and produces a monthly and annual report.[7]

The department reports that over the last 10 years an average of 4.9 counties each month did not provide the department with the report. The reports that are provided routinely do not include much of the information required by the statute. For example, counties have historically not provided the information required by paragraphs (2)(b)[8], (2)(d)[9], (2)(e)[10], and (2)(f)[11].

[7] Analysis of Senate Bill 2298, *supra.*

[8] The number of persons housed per day, admitted per month, and housed on the last day of the month, by age, race, sex, country of citizenship, country of birth, and immigration status classified as one of the following:

1. Permanent legal resident of the United States.
2. Legal visitor.
3. Undocumented or illegal alien.
4. Unknown status.

[9] The cost per day for housing a person in the county detention facility.

[10] The number of persons admitted per month, and the number of persons housed on the last day of the month, by age, race, and sex, who are:

1. Felons sentenced to cumulative sentences of incarceration of 364 days or less.
2. Felons sentenced to cumulative sentences of incarceration of 365 days or more.
3. Sentenced misdemeanants.
4. Awaiting trial on at least one felony charge.
5. Awaiting trial on misdemeanor charges only.
6. Convicted felons and misdemeanants who are awaiting sentencing.
7. Juveniles.
8. State parole violators.
9. State inmates who were transferred from a state correctional facility, as defined in s. 944.02, F.S., to the county detention facility.

[11] The number of persons admitted per month, by age, race, and sex:

1. Pursuant to part I of chapter 394, "The Florida Mental Health Act."
2. Pursuant to chapter 397, "Substance Abuse Services."

Basic Training Program

Section 958.045, F.S., requires the department to develop and maintain a basic training program for persons who are sentenced by a court or classified by the department as a youthful offender. Classification as a youthful offender is dependent upon an offender's age and the offense that is committed. A court may sentence a defendant as a youthful offender if the defendant:

- Is at least 18 years of age or was prosecuted as an adult pursuant to ch. 985, F.S., but is under 21 years old at the time of sentencing;
- Has been found guilty of or has pled nolo contendere or guilty to a felony that is not punishable by death or imprisonment for life; and
- Has not previously been classified as a youthful offender.[12]

The department must assign an inmate who is less than 18 years old to a youthful offender facility even if he or she was not sentenced as a youthful offender.[13] The department is also required to screen for and may classify as a youthful offender any inmate who is under 25 years old, who has not previously been classified as a youthful offender, and who has not committed a capital or life felony. The department may classify any inmate 19 years of age or younger, except a capital or life felon, as a youthful offender if it determines that the inmate's mental or physical vulnerability would substantially or materially jeopardize his or her safety in a non-youthful facility.[14]

The purpose of the basic training program is to divert the youthful offender from lengthy incarceration when a short "shock" incarceration could produce the same deterrent effect.[15] By statute, the program must include marching drills, calisthenics, a rigid dress code, manual labor assignments, physical training with obstacle courses, training in decision-making and personal development, general education development and adult basic education courses, drug counseling, and other rehabilitation programs. The department's is 120 days long and graduates approximately 169 inmates per year.[16]

Section 948.045(5)(a), F.S., provides:

> …Upon the offender's completion of the basic training program, the department shall submit a report to the court that describes the offender's performance. If the offender's performance has been satisfactory, the court shall issue an order modifying the sentence imposed and placing the offender on probation. …

Because this requires the department to wait until the inmate has completed the program before submitting the performance report to the court, youthful offenders must wait in prison while the sentencing court reviews the information and issues a modification order. The department reports that this process takes an average of 22 days.

[12] Section 958.04(1), F.S.
[13] Section 944.1905(5)(a), F.S.
[14] Section 958.11(6), F.S.
[15] *Id.*
[16] Analysis of Senate Bill 2298, *supra.*

Civil Actions – Costs of Incarceration

Section 960.293, F.S., provides that upon conviction, an offender is liable to the state and its local subdivisions for damages and losses for incarceration costs and other correctional costs. If the conviction is for a capital or life felony, the convicted offender is liable for incarceration costs and other correctional costs in the liquidated damage amount of $250,000. If the conviction is for an offense other than a capital or life felony, a liquidated damage amount of $50 per day of the convicted offender's sentence is to be assessed against the convicted offender and in favor of the state or its local subdivisions. Section 960.292, F.S., authorizes the court to enter a civil restitution lien on behalf of the state for these costs, and to retain continuing jurisdiction for the purpose of entering the lien. Section 960.297, F.S., authorizes the state and its local subdivisions to seek recovery of the costs in a civil action.

The period of time within which an action to collect costs of incarceration and other correctional costs is not set forth in statute. Therefore, a four-year statute of limitations applies pursuant to s. 95.11(3)(p), F.S., which provides that an action not specifically provided for in the statutes must be commenced within four years of when the cause of action accrues. Section 95.031(1), F.S., provides that a cause of action accrues "when the last element constituting the cause of action occurs." While it appears that this would be the date of the inmate's release from the department's custody in the case of recovery of incarceration and other correctional costs, it could be argued that the statute begins to run at the time of conviction.

The department reports that it has paid out over $3.2 million in the past three years to 506 offenders who have been successful in their civil actions. It uses the existing statutory authority to seek reimbursement for incarceration costs to offset claims paid to offenders.[17]

III. Effect of Proposed Changes:

Section 1 of the bill amends s. 940.061, F.S., to delete the obsolete requirement that the department assist inmates and offenders with the completion of the restoration of civil rights application. The bill codifies current practice by adding language requiring the department to send the Florida Parole Commission a monthly electronic list containing the names of inmates released from incarceration and offenders who have been terminated from supervision who may be eligible for restoration of civil rights.

Section 2 amends s. 944.35, F.S., to make it a 3rd degree felony for an employee of a private correctional facility to engage in sexual misconduct with an inmate. Consequently, private correctional facility employees will face criminal sanctions for sexual misconduct to the same extent as department employees.

Section 3 amends s. 945.604, F.S., to set forth time periods regarding claims for payment of medical treatment costs. It basically mirrors the provisions of s. 641.3155, F.S., that apply to claims and payments between health maintenance organizations and treatment provides. The bill defines what a claim is and how a claim is submitted, and provides that:

[17] Analysis of Senate Bill 2298, *supra.*

- A provider must submit a claim for payment to the department within 6 months after discharge from inpatient service or from the date of outpatient treatment.
- The department must submit a claim that it overpaid a provider's claim to the provider within 30 months after the claim was paid.
- A provider has 40 days from the date of receipt to pay, deny, or contest a claim for overpayment.
- A provider who contests a claim for overpayment must pay or deny the claim within 120 days after receipt. Failure to pay or deny the claim for overpayment within 140 days of receipt creates an obligation to pay the claim.
- The department cannot reduce another payment to a provider because of a claim for overpayment unless the reduction is agreed to by the provider or the provider fails to respond to the claim for overpayment.

Section 4 codifies much of the proviso language contained in the 2008 General Appropriations Act. It provides that compensation for inmate medical services may not exceed 110 percent of the Medicare allowable rate if there is not a contract between the department and the health care provider. This allowable compensation is increased to no more than 125 percent of the Medicare allowable rate if the health care provider reported a negative operating margin for the previous year to the Agency for Health Care Administration. The bill also provides that compensation for emergency medical transportation services may not exceed 110 percent of the Medicare allowable rate in the absence of a contract between the department and the emergency medical transportation service.

The bill defines the term "health care provider" in accordance with s. 766.105, F.S., and provides that the term "emergency medical transportation services" includes but is not limited to services rendered by ambulances, emergency medical services vehicles, and air ambulances.

Sections 5, 8, and 10 amend electronic monitoring statutes to require offenders on all types of supervision to pay for the monitoring service. The bill gives the department permissive authority to exempt a person from payment of all or any part of payment if it finds that the offender would qualify as being indigent in light of the factors listed in s. 948.09(3), F.S.

Section 6 amends s. 948.01, F.S., to require courts to use the orders of supervision provided by the department for all persons placed on community supervision. This will create statewide uniformity in orders of supervision, and will make it easier to ensure that the orders will all be amended to accurately reflect any applicable changes in the law. Having a uniform statewide order will also further a future transition to electronic submission of orders.

Section 7 amends s. 948.03(1), F.S., to change an existing standard condition of probation and add two new standard conditions as follows:

- The prohibition in s. 948.03(1)(l), F.S., against possessing, carrying, or owning any firearm unless authorized by the court and consented to by the probation officer is amended to delete the language requiring consent of the probation officer. The department reports that probation officers currently defer to the court's decision, and it appears that the language is unnecessary and potentially confusing.

- A standard condition is added to require the offender to live without violating any law. This requirement is already included in Rule 3.986(e) and (f) of the Florida Rules of Criminal Procedure. As in the Rules, the statute clarifies that it is not necessary to prove a conviction for violating the law in order to show that the condition was violated.
- A standard condition is added to require the offender to submit to the taking of a digitized photograph by the department as part of the offender's records. The photograph can be displayed on the department's public website while the offender is on court-ordered supervision, unless the offender is on pretrial intervention supervision or would otherwise be exempt from public records due to provisions in s. 119.07, F.S. Although the department currently takes such photographs and displays them on its website, it cannot mandate that a photograph be taken. The exception is in the case of sex offenders, who are required to submit to the taking of a photograph.

Section 11 removes the requirement for the administrators of county detention facilities to report information that is currently required but that has commonly not been reported.[18]

Section 12 amends s. 958.045, F.S., to permit the department to submit the required report of a youthful offender's performance in a basic training program to the court within 30 days prior to the scheduled completion of the program. The bill also authorizes the court to issue an order that modifies the sentence of a successful youthful offender to place him or her on probation effective upon the offender's successful completion of the remainder of the program. There is nothing in the statute that would prevent the department from notifying the court if an offender does poorly or commits misconduct between the date of notice and completion of the program.

Section 13 amends s. 960.292, F.S., to provide that a sentencing court must retain jurisdiction to enter civil restitution lien orders until the later of the duration of the sentence or up to 5 years after the offender is released from incarceration or supervision.

Section 14 amends s. 960.293(2), F.S., to provide that the liquidated damages of $50 per day for incarceration costs is based upon the length of the sentence that is imposed by the court. This appears to mean that an offender would not receive a reduction of cost if he or she is released prior to the completion of the full term of the sentence. For example, an inmate who earns enough gain time credits to be released after serving eight and a half years (85%) of a ten year sentence would owe the same amount as an inmate who serves the entire ten-year sentence. This is consistent with an opinion of the Third District Court of Appeal holding that the statute already requires computation of liquidated damages based upon the entire sentence.[19]

Section 15 amends s. 960.297(3), F.S., to provide a five year limitations period for initiating a claim to recover costs of incarceration or other correctional costs. The bill specifically provides that the action may be commenced any time during the offender's incarceration and up to five years after the date of the offender's release from incarceration or supervision, whichever occurs later. The bill also strengthens the state's ability to collect reimbursement in these types of civil actions and has the potential to deter frivolous filings by inmates.

[18] The specific requirements are listed in footnotes 4 through 7.
[19] Miami Dade County v. Moss, 842 So.2d 284 (Fla. 3d Dist. 2003)

Section 16 deletes s. 948.001(3), F.S., which is the obsolete definition of "criminal quarantine community control." It also deletes s. 944.293, F.S., which is the obsolete requirement for the department to assist an offender with completing an application for restoration of civil rights.

Section 17 corrects a cross-reference in s. 948.09(7), F.S.

Section 18 reenacts a portion of the Criminal Punishment Code in order to incorporate the amendment to s. 994.35, F.S., that subjects employees of private corrections companies to criminal sanction for sexual misconduct.

Section 19 provides an effective date of October 1, 2009.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The department estimates that it will save approximately $15 million as the result of the limitation of payments for non-contractual medical services. This would result in an equivalent loss of income to the private medical care providers.

C. Government Sector Impact:

This bill has a number of sections that may have a fiscal impact on the government sector. The savings could be substantial in the case of amendments limiting the amount of payment for non-contractual medical services, payment for the costs of electronic monitoring, and moving youthful offenders to probation immediately after completion of the Basic Training Program.

Section 2: The Criminal Justice Estimating Conference has not yet considered the impact of the amendment to s. 944.35, F.S., that makes the existing third degree felony of sexual misconduct with an inmate applicable to employees of private correctional facilities.

However, the small number of prosecutions of department employees and the relatively small number of private correctional employees in comparison to the number of department employees indicates that there would not be a large fiscal impact.

Section 4: The department anticipates that the proviso language that is currently in effect will result in more than $15 million in savings to the state during this fiscal year. Because the bill codifies the proviso language, the department anticipates similar annual savings in the future.

Sections 5, 8, and 10: Adding a statutory requirement for any offender who is on electronic monitoring as a result of any form of supervision to pay for the costs of monitoring may result in recovery of additional costs. Currently, the statute only requires payment by offenders who are on community control. During the last fiscal year, the department recovered 10 percent of the $5.5 million that it expended for electronic monitoring. Each increase of 10 percent in the recovery rate would result in recovery of an additional $550,000 dollars.

Section 12: The department estimates that the amendment of s. 958.045, F.S., to allow the court to issue an order modifying the sentence so that it takes effect immediately upon a youthful offender's successful completion of the Basic Training Program would save $260,000 annually. This estimate is based upon eliminating the current 22 day average time that program graduates must remain incarcerated while awaiting a modification order. The calculation is as follows:

22 days waiting X 165 graduates per year	3,630 days
Incarceration cost savings: 3,630 days X $78.17 per diem at Sumter Basic Training Unit	$283,757
Additional supervision costs: 3,630 days X $6.69 per diem for supervision	$24,285
Projected total annual cost savings	$259,472

Sections 14: Amendment of s. 960.293, F.S., to clearly state that the provision for liquidated damages of $50 per day for incarceration costs is calculated based upon the entire adjudged sentence and could result in larger judgments against ex-inmates. Actual recovery of the judgments would depend upon the amount of the ex-inmate's assets, and therefore recoveries are not likely to increase substantially.

Section 15: Amendment of s. 960.297, F.S., to establish a five-year statute of limitations for the department to file a lawsuit to recover costs of incarceration has the potential to result in increased collection of these costs.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.